

1 Honorable Brian D. Lynch  
2 Chapter 7  
3 Location: Tacoma

4  
5 UNITED STATES BANKRUPTCY COURT  
6 WESTERN DISTRICT OF WASHINGTON

7 In re: No. 20-40926

8 JOSEPH and MARIAH HARVEY,

9 Debtors.

10 KATHRYN A. ELLIS, as Trustee for the  
estate of Joseph and Mariah Harvey,

11 Plaintiff,

12 vs.

13 CONSUMER PORTFOLIO SERVICES  
14 INC., a California corporation doing business  
in the State of Washington,

15 Defendant.

16  
17 Adv. No.

18 COMPLAINT TO RECOVER AVOIDABLE  
19 TRANSFER

20 COMES NOW the Plaintiff, Kathryn A. Ellis, the duly appointed and acting Trustee in  
21 the above referenced matter, by and through the undersigned attorney, and states and alleges as  
22 follows:

23 **I. PARTIES AND JURISDICTION**

24 1. Plaintiff. Joseph and Mariah Harvey filed a Chapter 7 Bankruptcy Petition on or  
about March 31, 2020. Kathryn A. Ellis is the duly appointed and acting Chapter 7 Trustee of  
such estate.

25 2. Defendant. The Defendant, Consumer Portfolio Services Inc., is a California  
26 corporation doing business in the State of Washington.

27  
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Suite 207  
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1           3. This adversary proceeding is one arising in the Chapter 7 case of the above named  
2 debtors now pending in this Court. This Court has jurisdiction over this adversary proceeding  
3 pursuant to 28 U.S.C. §§ 157, 1334 and 11 U.S.C. §§ 547 and 550. This is a core proceeding  
4 under 28 U.S.C. § 157 (b)(2)(A), (E), (F), (H) and (O).

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## II. FACTS

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7           4. On or about February 7, 2020, Joseph and Mariah Harvey, debtors herein,  
8 purchased a 2011 Chevrolet Silverado, VIN No. 3GCPKSE39BG292723, from Uhlmann Motors  
9 Inc. and financed by Consumer Portfolio Services Inc. The debtors were given possession of the  
10 vehicle on February 7, 2020 and the lien was not perfected until March 26, 2020.

11

12          5. The debtors granted a security interest to the Defendant on account of an  
13 antecedent debt owed by the debtors, prior to the date the transfer was made; the transfer was  
14 made while the debtors were insolvent and the transfer occurred within 90 days prior to the filing  
15 of this bankruptcy petition and enabled the Defendant to receive more than it would have  
16 received from the bankruptcy court if the transfer had not been made.

17

18          6. On or about May 20, 2020, Plaintiff made demand upon Defendant to return the  
19 transfer above referenced. When no response was received, Plaintiff issued a second demand on  
20 June 24, 2020. The purchase price and value of the vehicle at the time of filing was \$20,532.74.

21

## III. FIRST CAUSE OF ACTION

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23          7. By reason of the foregoing, the Defendant is liable to the Plaintiff in the sum  
24 above stated, plus for any other money or property transferred by the debtors to the Defendant  
25 within 90 days prior to the filing of the Bankruptcy Petition, and all payments made thereafter  
26 pursuant to §§ 547 and 550 of the Bankruptcy Code.

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8. Pursuant to 11 U.S.C. § 550, Plaintiff requests avoidance of the lien and surrender of the vehicle above referenced or a judgment for the value of such property as set forth above.

WHEREFORE, the Plaintiff prays for judgment as follows:

- a) For an order avoiding the lien in the 2011 Chevrolet Silverado of Defendant;
- b) For judgment against Defendant in the amount of \$20,532.74, or surrender of the property;
- c) For interest from the date of transfer, plus costs and reasonable attorney's fees; and
- d) For such further relief as the Court deems just in the premises.

DATED this 22<sup>nd</sup> day of July, 2020.

/s/ Kathryn A. Ellis

Kathryn A. Ellis, WSBA #14333  
Attorney for Plaintiff

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